

## **Chapter 10.24 DRIVERS**

### **Sections:**

**10.24.010 Driving while under the influence of alcohol, other drug, or combination thereof.**

**10.24.011 Suspension of driver's License--Implied consent.**

**10.14.012 Chemical and other test.**

**10.14.013 Transportation of alcoholic liquor.**

**10.24.020 Accident assistance and reporting.**

**10.24.030 Fleeing or attempting to elude police officer.**

**10.24.010 Driving while under the influence of alcohol, other drug, or combination thereof.** A. A person shall not drive or be in actual physical control of any vehicle within this city while:

1. The alcohol concentration in such person's blood or breath is 0.10 or more based on the definition of blood and breath units in Section

10.24.012;

2. Under the influence of alcohol;

3. Under the influence of any other drug or combination of drugs to a degree which renders such person incapable of safely driving; or

4. Under the combined influence of alcohol and any other drug or drugs to a degree which renders such a person incapable of safely driving.

B. The fact that any person charged with violating this section is or has been legally entitled to use alcohol, or other drugs, or any combination of both, shall not constitute a defense against any charge of violating this section.

C. Every person convicted of violating this section shall be punished as provided in Chapter 1.12 of this code.

The Secretary of State shall revoke the driving privileges of any person convicted under this section. (Ord. 83-7 § 1, 1982: prior code § 10.701).

**10.24.011 Suspension of driver's license--Implied consent.** A. Any person who drives or is in actual physical control of a motor vehicle upon the public highways of this city shall be deemed to have given consent, subject to the provisions of Section 10.24.012, to a chemical test or tests of blood, breath, or urine for the purpose of determining the alcohol, other drug, or combination thereof content of such person's blood if arrested, as evidenced by the issuance of a uniform traffic ticket, for any offense as defined in Section

**10.24.010. The test or tests shall be administered at the direction of the arresting officer.** The law enforcement agency employing said officer shall designate which of the aforesaid tests shall be administered by their enforcement personnel.

B. Any person who is dead, unconscious or who is otherwise in a condition rendering such person incapable of refusal shall be deemed to not have withdrawn the consent provided by subsection (A) of this section and the test or tests may be administered, subject to the provisions of Section 10,24.012.

C. A person requested to submit to a test as provided above shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in suspension of such person's license to operate a motor vehicle for six months for the first such arrest and refusal and a suspension of such privilege for twelve months for the second and each subsequent such arrest and refusal within five years. Following this warning, if a person under arrest refuses upon the request of a law enforcement officer to submit to a test designated by the law enforcement agency as provided in subsection (A) of this section, none shall be given, but the law enforcement officer shall file with the clerk of the circuit court for the county in which the arrest was made, a sworn statement naming the person refusing to take and complete the test or tests requested under the provisions of this section. Such sworn statement shall identify the arrested person, such person's driver's license number and current residence address and shall specify that a refusal by said person to take the test or tests was made. Such sworn statement shall include a statement that the arresting officer had reasonable cause to believe the person was driving the motor vehicle within this city while under the influence of alcohol, other drug, or combination thereof and that such test or tests were made as an incident to and following the lawful arrest for an offense as defined in Section 10.24.0 10, and that the person after being arrested for an offense arising out of acts alleged to have been committed while so driving or in actual physical control of a motor vehicle refused to submit to and complete a test or tests as requested by the law enforcement officer. The clerk shall thereupon notify such person in writing that the person's privilege to operate a motor vehicle will be suspended unless, within twenty-eight days from the date of mailing of the notice, such person shall request in writing a hearing thereon; if the person desires a hearing, such person shall file a complaint in the circuit court for and in the county in which such person was arrested for such hearing. Such hearing shall proceed in the court in the same manner as other civil proceedings, shall cover only the issues of whether the person was placed under arrest for an offense as defined in Section 10.24.0 10 as evidenced by the issuance of a uniform traffic ticket; whether the arresting officer had reasonable grounds to believe that such person was driving or in actual physical control of a motor vehicle while under the influence of alcohol, other drug, or combination thereof; and whether such person refused to submit and complete the test or tests upon the request of the law enforcement officer. Whether the person was informed that such person's privilege to drive would be suspended if such person refused to submit to the test or tests shall not be an issue.

Immediately upon the termination of the court proceedings, the clerk shall notify the Secretary of State of the court's decision. The Secretary of State shall thereupon suspend the driver's license, the privilege of driving a motor vehicle on highways of this state given to a nonresident, or the privilege which an unlicensed person might have to obtain a license under the Driver's License Act, of the arrested person if that be the decision of the court. If the court recommends that such person be given a restricted driving permit to prevent undue hardship, the clerk shall so report to the Secretary of State.

D. Regardless of whether such person files a complaint in the court for a court proceeding as provided in subsection (C) of this section, whenever a driver's license is suspended under this section, the Secretary of State may, if application is made therefor by the person whose license is so suspended, issue such person a restricted driver's permit, to

prevent undue hardship, in the same manner, under the same conditions and with the same limitations specified in Chapter 95½, Section 6-205 of the Illinois Revised Statutes. If the person has had a court hearing as provided for in subsection (C) of this section and if the court recommended that such person be given a restricted driver's permit to prevent undue hardship, this recommendation shall be made a part of the hearing before the Secretary of State. (Ord. 83-7 § 2, 1982).

**10.24.012 Chemical and other test.** A. Upon the trial of any civil or criminal action or proceeding arising out of an arrest for an offense as defined in Section 10.24.010, evidence of the concentration of alcohol, other drug or combination thereof in a person's blood or breath at the time alleged, as determined by analysis of the person's blood, urine, breath or other bodily substance, shall be admissible. Where such test is made the following provisions shall apply:

1. Chemical analyses of the person's blood, urine, breath or other bodily substance to be considered valid under the provisions of this section shall have been performed according to standards promulgated by the department of public health in consultation with the department of law enforcement by an individual possessing a valid permit issued by that department for this purpose. The director of the department of public health in consultation with the department of law enforcement is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, to issue permits which shall be subject to termination or revocation at the discretion of that department and to certify the accuracy of breath testing equipment. The Illinois Department of Public Health shall prescribe regulations as necessary to implement this section.

2. When a person shall submit to a blood test at the request of a law enforcement officer under the provisions of Section 10.24.011, only a physician authorized to practice medicine, a registered nurse or other qualified person approved by the department of public health may withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content therein. This limitation shall not apply to the taking of breath or urine specimens.

3. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of their own choosing administered a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

4. Upon the request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to the person or such person's attorney.

5. Alcohol concentration shall mean either grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

B. Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person's blood or breath at the time alleged as shown by analysis of the person's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

1. If there was at the time an alcohol concentration of 0.05 or less, it shall be presumed that the person was not under the influence of alcohol.
  2. If there was at the time an alcohol concentration in excess of 0.05 but less than 0.10, such facts shall not give rise to any presumption that the person was or was not under the influence of alcohol, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol.
  3. If there was at the time an alcohol concentration of 0.10 or more, it shall be presumed that the person was under the influence of alcohol.
  4. The foregoing provisions of this section shall not be construed as limiting the introduction of any other relevant evidence bearing upon the question whether the person was under the influence of alcohol.
- C. if a person under arrest refuses to submit to a chemical test under the provisions of Section 10.24.011, evidence of refusal shall be admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was under the influence of alcohol, or other drugs, or combination of both was driving or in actual physical control of a motor vehicle. (Ord. 83-7 § 3, 1982).

**10.24.013 Transportation of alcoholic liquor.** A. Except as provided in subsection (B) of this section, no person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle except in the original container and with the seal unbroken.

B. This section shall not apply to the passengers of a chartered bus designed for carrying more than ten persons when it is being used for the transportation of said persons. However, this provision of subsection (B) shall not extend to buses chartered for school purposes. The driver of any such vehicle is prohibited from consuming or having any alcoholic liquor in or about the driving area of any such vehicle.

C. Evidence of alcoholic consumption alone shall be prima facie evidence of the driver's failure to obey subsection (B) of this section. (Ord. 83-9, 1 982).

**10.24.020 Accident assistance and reporting.** The driver of a vehicle which has collided with, or been in an accident with any vehicle, person or property in such a manner as to cause injury or damage, shall stop immediately, and render such assistance as may be possible, and give his true name and residence to the injured person or any other persons requesting the same on behalf of the injured person, or the owner of the property damaged, and to a policeman, if one is present. The driver of each vehicle concerned in any such accident shall report to the nearest police authority promptly after such accident. (Prior code § 10.702).

**10.24.030 Fleeing or attempting to elude police officer.** Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a peace officer directing such driver or operator to bring his vehicle to a stop, wilfully fails or refuses to obey such direction, increases his speed, extinguishes his lights, or otherwise flees or attempts to elude the officer, is guilty of a misdemeanor and shall be fined not less than fifty dollars nor more than five hundred dollars. The signal given by the peace officer may be by hand, voice, siren, red or blue light; provided, the officer giving such signal

shall be in a police uniform, and, if driving a vehicle, such vehicle shall be marked, showing it to be an official police vehicle. (Ord. 83-32, 1983).